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Atty. Docket No.: 25436/1340

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Carstens, Carsten-Peter
Serial No.: 09/492,590
Filed: January 27, 2000
Entitled: "Methods and Compositions for High Level Expression of Heterologous Protein With Poor Codon Usage"

Examiner: G. Leffers, Jr.

Group Art Unit: 1636

Conf. No.: 1053

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Box: CPA
Commissioner for Patents
Washington, D.C. 20231

PRELIMINARY AMENDMENT / RESPONSE TO FINAL OFFICE ACTION UNDER 37
C.F.R. §1.116

Sir:

This is filed in response to the Final Office Action mailed March 26, 2002 in the above-identified application. Kindly enter the following remarks.

REMARKS

Claims 1-16 and 18-44 are pending.

Applicants wish to thank Examiner Leffers for the telephone interview of September 20, 2002, in which he agreed to consider literature references that provide codon usage information for thousands of species as well as thousands of tRNA genes before the filing date of the instant application in order to establish that the specification and the prior art make it clear to one skilled in the art that Applicants were in possession of the full scope of the claimed invention at the time of filing. The Examiner also agreed to reconsider the scope of commercial success necessary to support a legal conclusion of nonobviousness.

Rejections under 35 U.S.C. §112, first paragraph:

The Office Action maintained the rejection of claims 1-16 and 18-44 for insufficient written description under 35 U.S.C. §112, first paragraph. The Office Action acknowledges that the specification recites a number of different cell types in which the instant invention can be